



DEPARTMENT OF LABOR

Bureau of Labor Statistics

Announcing Elimination of Electronic Devices in the DOL Lock-Up Facility for Participating News Media Organizations with Pre-Release Access to Statistical Information

AGENCY: Department of Labor, Bureau of Labor Statistics.

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) plans to eliminate use of all electronic devices in the lock-up facility and continue to rely on transmission sources readily available to the general public to provide simultaneous data access to all interested users. These sources include agency websites, social media channels, and e-mail subscription lists.

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SUPPLEMENTARY INFORMATION:

I. Background

The Office of Management and Budget (OMB) is responsible for the development and oversight of Government-wide policies, principles, standards, and guidelines concerning statistical information presentation and dissemination, as well as the

timely release of statistical data. OMB has issued a series of Statistical Policy Directives (SPDs) to guide agencies in their dissemination of statistical products. Each of these SPDs describes the fundamental statistical-system principle of equitable and timely dissemination of statistical information to the public. See, e.g., SPD No. 1, Fundamental Responsibilities of Federal Statistical Agencies and Recognized Statistical Units (Dec. 2, 2014) ("the objectivity of the information released to the public is maximized by making information available on an equitable, policy-neutral, transparent, timely, and punctual basis"); SPD No. 3, Compilation, Release, and Evaluation of Principal Federal Economic Indicators (Sept. 25, 1985) (emphasizing the importance of releasing Principal Federal Economic Indicators (PFEIs) to the public in a fair and orderly manner); SPD No. 4, Release and Dissemination of Statistical Products Produced by Federal Statistical Agencies (Mar. 7, 2008) ("Statistical agencies must ensure that all users have equitable and timely access to data that are disseminated to the public"). In short, equitable and timely dissemination of statistical information is a core principle of Federal statistical policy.

For many years, consistent with these Statistical Policy Directives, the news media have aided BLS and ETA in disseminating their statistical data. Since the mid-1980s, DOL agencies have provided pre-release data access to news

organizations under strict embargoes (known as "lock-ups") for PFEIs, which are a set of designated economic data series (e.g., the Employment Situation and Consumer Price Index) that have significant commercial value and may affect the movement of commodity and financial markets upon release. In addition, DOL has employed lock-ups for the release of limited non-PFEI data (i.e., Unemployment Insurance Weekly Claims). Although not required to do so, the Department of Labor (DOL) in 1988 constructed a special lock-up facility to provide pre-release access to news media organizations. Steps were taken to enhance the security of the lock-up facility in 1992 and again in 2011-2012. The lock-ups provide participating media organizations 30 minutes before official release time to digest PFEI data (and potentially longer in the case of non-PFEIs). At the official release time, the communication lines within the facility are opened, allowing the press to transmit their articles or tables of data to the public.

For many years, dissemination through the lock-up process was a highly effective method to get information to the public. But today, it is no longer the best means to ensure the equitable and timely dissemination of statistical information consistent with OMB's guidance. Continuing security concerns also outweigh any continuing benefits of the current process.

DOL's Inspector General has noted concerns with the current press lock-up process, including in reports dated January 2, 2014 (17-14-001-03-315) and March 25, 2016 (17-16-001-01-001). Specifically, DOL Inspector General Report 17-14-001-03-315 states that the lock-up "unintentionally creates an unfair competitive advantage for certain news organizations and their clients":

Pre-release access of DOL-generated economic data is intended to serve the general public by ensuring that news reports about the data are accurate. To that end, the media are given access to the data in advance of the public release to facilitate their ability to analyze and ask questions about the data as they prepare their news stories. However, the intended purpose of ensuring accurate news reports must be weighed against the inequitable trading advantage that a lock-up can potentially create. Several news organizations that participate in the DOL press lock-up are able to profit from their presence in the lock-up by selling, to traders, high speed data feeds of economic data formatted for computerized algorithmic trading. Because these news organizations have pre-release access, they are able to pre-load the data ... allowing their clients to get this information faster than the general public, which has to wait to download the data after it gets posted to the Department of Labor websites.

The aforementioned report further recommends that BLS and ETA, "... implement a strategy designed to eliminate any competitive advantage that news organizations present in the lock-up and/or their clients may have; or, absent a viable solution, consider discontinuing the use of the press lock-up that provides news organizations pre-release access."

It remains DOL's policy to ensure the media are given time to prepare informed summaries and analysis of economic data for the general public. However, to protect the integrity of our data and promote wide dissemination of key economic data in an equitable, timely, secure, and cost-effective manner, as of March 1, 2020, DOL will eliminate use of all electronic devices in the lock-up facility. The change to eliminate use of all electronic devices in the lock-up facility seeks to minimize the risk of premature disclosure of the data and the risk of providing an unfair monetary advantage over the rest of the public due to the preparation time provided by their early access to the data. Specifically, this change will minimize the advantage of allowing lock-up participants to prepare electronic data tables that may be used for algorithmic trading ventures. The BLS and ETA will continue to make their data available to the general public immediately upon their 8:30 release through the Web and other sources.

II. Action

In an effort to protect the integrity of our data and ensure fairness in the dissemination of statistical information, DOL plans to eliminate use of all electronic devices in the DOL lock-up facility starting on March 1, 2020. After that date, credentialed press will continue to be allowed into the facility 30 minutes prior to release time, following existing security

protocols. BLS and ETA staff will be present in the lock-up facility; will provide paper copies of releases and related material; and will be available to answer questions. Credentialed press will be allowed to take notes on paper. At release time, credentialed press will be able to leave the lock-up facility. DOL staff will continue to escort TV press to their camera stations a few minutes before release time, following existing procedures. The purpose of these changes is to "ensure that all users have equitable and timely access to data that are disseminated to the public" as noted in OMB Statistical Policy Directive No. 4.

BLS and ETA will provide access to the official news releases at their scheduled release times on the agency websites. In addition, the agencies will continue to announce the releases through social media channels and send the news releases to email subscribers. Agencies will continue to respond to questions about the data from the public following the release as well as questions from the media attending the lock-ups during and after the lock-up time period.

III. Necessity of Action

When DOL began providing embargoed data releases in the mid-1980s, media dissemination was an equitable and timely method to get data to the public. Today, technology and the Internet permits the public and interested data users to obtain

releases for themselves. Unlike media organizations in the lock-up facility, however, Internet users do not have 30 minutes before the official release time to digest the data, and are disadvantaged relative to lock-up participants to the extent that Internet postings may lag slightly behind lock-up transmissions. Furthermore, developments in high-speed algorithmic trading technology have also raised concerns about the possible impact of unequal access to sensitive economic data. As discussed above, DOL's Inspector General has issued multiple reports with findings that maintaining the current press lock-up "creates an unfair competitive advantage for certain news organizations and their clients."

In the time since the OIG recommendations were issued, BLS and ETA have devoted significant resources to introducing improved technologies that strengthen our infrastructure and ensure data are posted to the BLS or DOL websites immediately following the official release time. With the introduction of these improved technologies, DOL is positioned to eliminate the use of all electronic devices in the lock-up facility while still ensuring that all parties, including the media, commercial entities, and the general public, will have equitable and timely access to our most sensitive data.

Continuing use of electronic devices in the lock-up process also raises considerations of security and cost-efficiency.

Given the sensitive nature of DOL's PFEI and limited non-PFEI data, we have devoted significant attention over the years to safeguarding embargoed data to prevent its release out of the lock-up facility prematurely. This has included establishing a secure technical and physical infrastructure, monitoring participants' adherence to the rules, and continually upgrading security as cyber threats have evolved. Despite all these precautions, however, the risk of a premature data release is inherent in the nature of lock-ups and will be present as long as lock-ups exist. Discontinuing the use of electronic devices in the lock-up facility will significantly reduce our risk of premature release from this source.

IV. Result

The intended result of this notice of DOL's planned elimination of the use of electronic devices in the lock-up facility as of March 1, 2020, is to protect the integrity of our data and preserve the public benefit from the informed products produced by the media shortly after release. In addition, it enables DOL to widely disseminate the DOL PFEI and non-PFEI news releases in an equitable, secure, and cost-effective manner so that all data release information is available to the public and the media, simultaneously at the official release time.

The Commerce Department's Bureau of Economic Analysis and U.S. Census Bureau are also committed to the secure, timely, and

equitable release of all Principal Federal Economic Indicators. As such, both Bureaus will continue to conduct embargoed media lock-ups at the Department of Labor's facility and will align their procedures with the new process and timeline.

We are advising stakeholders now of this action planned in 2020 to facilitate a predictable and orderly process for stakeholders in the DOL lock-up facility.

Signed at Washington, D.C., this 3rd day of February 2020.

William W. Beach

Commissioner of Labor Statistics.

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